

03-0652 M.E.A. v. Little Bear Transport Issued: 5/3/05

Little Bear Transport and its workers' compensation insurance carrier, Workers Compensation Fund (referred to jointly as "Little Bear"), ask the Utah Labor Commission to review Administrative Law Judge Eblen's award of benefits to M. E. A. under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

ISSUE PRESENTED

The only issue raised by Little Bear's motion for review is whether Judge Eblen correctly determined the amount of Mr. A.'s compensation rate for temporary total disability.

FINDINGS OF FACT AND DISCUSSION

As noted above, the only factual issue in dispute is the amount of Mr. A.'s weekly temporary total disability compensation rate. The Commission has reviewed the hearing record on this point and finds that Mr. A.'s earnings were \$5,238.33 over 9.7 weeks, or \$540 per week. Consequently, pursuant to §34A-2-409(2) of the Act, Mr. A.'s rate for temporary total disability compensation is \$360 per week. The Commission modifies Judge Eblen's findings and order to that extent, but adopts the remainder of Judge Eblen's order.

ORDER

The Commission grants Little Bear's motion for review and modifies the amount of temporary total disability compensation due Mr. A. accordingly. It is so ordered.

Dated this 3rd day of May, 2005 .

R. Lee Ellertson, Commissioner